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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,576	01/25/2001	Bin-Shing Chen	3308	4502

7590                  02/26/2002

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[REDACTED] EXAMINER

TRAN, THIEN F

[REDACTED] ART UNIT      [REDACTED] PAPER NUMBER

2811

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/769,576	CHEN, BIN-SHING	
	Examiner Thien F Tran	Art Unit 2811	
<b>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>			
<b>Period for Reply</b>			
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>			
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b>			
<p>1)<input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a)<input type="checkbox"/> This action is <b>FINAL</b>.      2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
<b>Disposition of Claims</b>			
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-14</u> is/are pending in the application.</p> <p>  4a) Of the above claim(s) <u>1-10</u> is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>11-14</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>			
<b>Application Papers</b>			
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.              Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.              If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
<b>Priority under 35 U.S.C. §§ 119 and 120</b>			
<p>13)<input checked="" type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>  a)<input checked="" type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p>    1.<input checked="" type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>    2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p>    3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p>			
<p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>  a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
<b>Attachment(s)</b>			
<p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.</p>		<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____.</p>	

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election with traverse of claims 11-14 in Paper No. 3 is acknowledged. The traversal is on the ground(s) that the subject matter of the two groups is interrelated such that a complete search for full and proper consideration of patentability would be substantially overlapping. This is not found persuasive because it is well settled that related inventions are required to be restricted if it is shown that these inventions are distinct. It is clearly established by an example that group I and II inventions are in fact distinct in Paper No. 2. Also, the product and process are located in different classes, 438 and 257, respectively, placing an undue burden upon the examiner.

The requirement is still deemed proper and is therefore made FINAL.

### *Specification*

The abstract of the disclosure is objected to because the invention is about the device, not the process of making the device. Therefore, the abstract should be directed to the device, its structure and operation instead of the steps of forming the device. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed, a device not a method.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukumoto (US 5,753,953).

Fukumoto discloses the claimed EEPROM device (Fig. 1) comprising a silicon substrate 1 having a source/drain region; 2 a tunnel oxide layer 4 disposed over the silicon substrate; a select gate 6 disposed over the tunnel oxide layer, wherein the select gate is defined by conductive layer covered with a first insulated material 8a thereon and comprises a sidewall 8 made of a second insulated material; a floating gate 7 aligned to the select gate; a third insulated material 10 disposed over the tunnel oxide layer, the select gate and the floating gate; and a control gate 9 formed on the third insulated material.

Regarding claim 12, each of the first insulated material, the second insulated material and the third insulated material is one selected from a group consisting of silicon oxide, silicon nitride and silicon oxide/nitride composite.

Regarding claim 13, the conductive layer is made of polysilicon.

Regarding claim 14, the floating gate and the control gate are made of polysilicon.

### ***Conclusion***

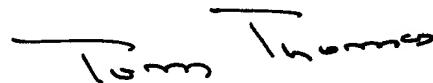
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien F Tran whose telephone number is (703) 308-

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4108. The examiner can normally be reached on 7:00AM - 3:30PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (703) 308-2772. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



TOM THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

tt

February 19, 2002